

**NOV 16 2005**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

ELIZABETH LUMANLAN TUBIG,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-74443

Agency No. A71-583-674

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted November 8, 2005<sup>\*\*</sup>

Before: WALLACE, LEAVY and BERZON, Circuit Judges.

Elizabeth Lumanlan Tubig, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen deportation proceedings to apply for relief under the Convention

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Against Torture. We review the denial of a motion to reopen for abuse of discretion, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Tubig's motion to reopen because she failed to provide any evidence that she would be at risk of torture if she were returned to the Philippines. 8 C.F.R. § 1003.2 (c)(3)(ii) (providing that an alien must provide evidence of "changed circumstances arising in the country of nationality or in the country to which deportation has been ordered"); *see also Cano-Merida*, 311 F.3d at 966 (9th Cir. 2002).

We lack jurisdiction to consider Tubig's contention that circumstances have changed in the Philippines, because she did not exhaust her administrative remedies with respect to that claim. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**